

IN THE HIGH COURT OF HIMACHAL PRADESH
SHIMLA.

RSA No. 421 of 2007

Date of Decision : November 20, 2007

Aftab Begum and another ...Appellants.

Versus:

Nisar Begum and others ...Respondents.

Coram:

The Hon'ble Mr. Justice Sanjay Karol, Judge.

Whether approved for reporting?¹ No

For the appellants: Mr. Anand Sharma, Advocate.

For the respondents. Mr. R. K. Bawa, Sr. Advocate with
Mr. Inderjit Singh, Advocate.

Sanjay Karol, J. (Oral)

The present appeal arises out of the judgment and decree dated 18.6.2007 passed by the District Judge, Sirmaur District at Nahan, in Civil Appeal No. 69-CA/13 of 2005, titled as Aftab Begum and another v. Nisara Begum and others, upholding the judgment and decree dated 19.9.2005 passed by the Civil Judge (Sr. Division), Sirmaur District at Nahan in Civil Suit No. 140/1 of 2001 titled as Nisara Begum and others v. Aftab Begum and others.

¹ Whether reporters of Local Papers may be allowed to see the judgment?

For the purpose of convenience, the appellants hereinafter are referred to as 'the defendants' and the respondents herein are referred to as 'the plaintiffs'.

Plaintiffs' filed a Civil Suit No. 19/1 of 1988 which was finally decreed by this Court in terms of judgment and decree dated 14.12.2000 wherein it was held that the plaintiffs are the absolute owners of the suit property and the defendants being in possession of the same could be evicted only in accordance with law. The decree admittedly attained finality.

In order to recover possession of the suit premises from the defendants the plaintiffs instituted afresh suit before the Civil Judge (Sr. Division), which was decreed in terms of the judgment and decree dated 19.9.2005. The trial Court held the earlier judgment and decree, passed by this Court to be binding between the parties and decreed the plaintiffs' suit for possession. The defendants' plea of adverse possession was negatived. The defendants assailed the same before the District Judge, who in terms of the impugned judgment and decree dated 18.6.2007, dismissed the appeal.

Both the Courts below have concurrently held that the plaintiffs being owners are entitled for possession of the suit premises in terms of the judgment and decree dated 14.12.2000 passed by this Court. The plea of adverse possession has been, in my view, rightly rejected by the Courts below.

In view of the concurrent findings of facts recorded by the Courts below, I see no reason to interfere with the same as no substantial question of law arises for consideration by this Court. The appeal is accordingly dismissed.

**CMP No. 725/2007 &
Caveat Petition No. 481 of 2007.**

In view of the dismissal of the appeal, both the applications are also dismissed.

November 20, 2007.
(rana)

(Sanjay Karol)
Judge.